

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHERI LABLANCHE,

PLAINTIFF,

V.

NATIONAL BOARD OF MEDICAL
EXAMINERS – (NBME), FEDERATION
OF STATE MEDICAL BOARDS –
(FSMB), EDUCATIONAL COMMISSION
FOR FOREIGN MEDICAL GRADUATES
– (ECFMG)

DEFENDANTS.

CIVIL ACTION NO. 4:13-CV-00204

AFFIDAVIT OF GERARD F. DILLON

Gerard F. Dillon, having been duly sworn, hereby deposes and states:

1. I am over 18 years of age. I have never been convicted of a felony or crime of moral turpitude. I am of sound mind, capable of making this affidavit and do so under the penalty of perjury. The facts contained in this affidavit are true and correct as to my personal knowledge and belief. I am employed by the National Board of Medical Examiners ("NBME") as Vice President, Licensure Programs. As Vice President, Licensure Programs, I am responsible for coordinating USMLE activity including implementing and coordinating USMLE policy, developing an appropriate program design, overseeing the activities and composition of test committees, and serving as a liaison with external groups. A copy of my curriculum vitae is attached hereto as Exhibit A and is a true and correct copy of same.

2. The NBME is a private non-profit corporation which, together with the Federation of State Medical Boards, another non-profit corporation, has created and established the United States Medical Licensing Examination (“USMLE”). The USMLE is an examination relied upon

by individual state medical licensing authorities to assess the qualifications of candidates for medical licenses. The test is designed to screen out unqualified individuals.

3. The Mission of the NBME is to protect the health of the public through state of the art assessment of health professionals. The USMLE program provides a common, consistent system of assessment for all MD's seeking medical licensure in the United States. The medical licensing boards in all states and territories rely on the NBME to provide exams that identify those who possess a minimum level of competence to practice medicine. Maintaining the integrity of the testing process is a critical part of the NBME's obligation to protect the public. The NBME is an integral component of a carefully constructed state-by-state system designed to ensure that only competent and qualified individuals are licensed to practice medicine.

4. There are three phases of the USMLE exam known as "Steps": Step 1, Step 2, which consists of separate clinical knowledge ("CK") and clinical skills ("CS") components and Step 3. Passage of all three Steps is accepted by all U.S. medical licensing authorities to satisfy the examination requirements for licensure as a physician.

5. In order to ensure the integrity and meaning of the scores and their important role in the medical licensure process, the NBME ensures that all Steps are administered under standard conditions and that no examinee or group of examinees receives unfair advantage over another on the examination.

6. Prior to 1999, USMLE was administered in paper and pencil format, on limited, fixed examination dates in proctored environments. Effective 1999, USMLE was converted from a paper and pencil-based examination to a computer-based testing (CBT) format. This change released examinees from the restriction of fixed testing dates, enabled faster reporting of scores, facilitated extension of the USMLE to more domestic and international examination sites,

and eliminated certain security concerns. Today Step 1 and Step 2 CK are administered almost every day of the year through a delivery vendor, Prometric® Inc., at proctored sites around the world. Step 3 is administered by Prometric® Inc. at facilities in the United States and its territories. Step 2 CS, which requires the examinee to interact with individuals trained to portray various medical conditions, is administered at five regional Clinical Skills Evaluation Centers in the United States.

7. On behalf of the USMLE Program, Prometric delivers over one-hundred thousand USMLE administrations each year.

8. Since changing to CBT in 1999, the three computer-based Steps have been administered over a million times and no examinee, including individuals who applied for and were granted testing accommodations, has been permitted to take USMLE in a paper and pencil format.

9. The scoring of these examinations in computerized format requires administration to a large number of examinees. Even if a paper version of the examination existed – which it does not – we could not represent to score recipients that a score received on a paper-based examination was psychometrically equivalent to a score achieved on a computer-based examination. To confirm such equivalence it would at least be necessary to have the results from large numbers of examinees taking the same paper version. For these and other reasons, all examinees, including those with disabilities requiring reasonable accommodation, take USMLE in the computer-based format.

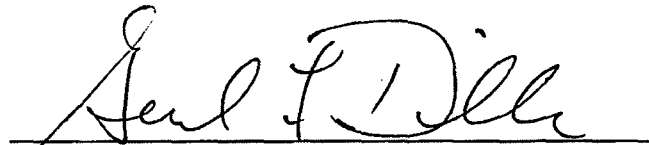
10. Our records demonstrate that Plaintiff Cheri LaBlanche took Step 1 of the USMLE in 2005 and failed to achieve a passing score. She also failed to achieve a passing score on Step 1 of the USMLE in 2007.

11. In accordance with the Americans with Disabilities Act and USMLE policy, the USMLE Program provides reasonable accommodations to examinees with documented disabilities relevant to the USMLE.

12. The USMLE Program has no record of Cheri LaBlanche ever submitting a request for accommodations on the basis of a disability.

Further affiant sayeth not.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 20th DAY OF September, 2013.



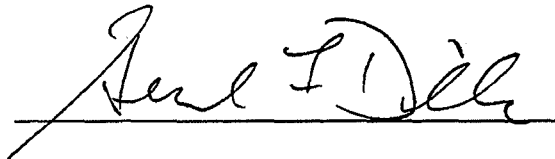
Gerard F. Dillon

AFFIDAVIT

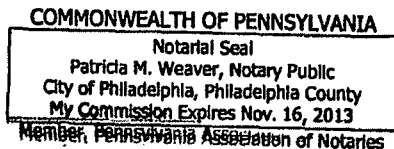
COMMONWEALTH OF PENNSYLVANIA §
§
COUNTY OF PHILADELPHIA §


Before me, the undersigned notary public, this day personally appeared Gerard F. Dillon to me known, who being duly sworn according to law, deposes and says:

All facts stated in the foregoing Affidavit of Gerard F. Dillon in the *LaBlanche v. National Board of Medical Examiners* lawsuit, before the United States District Court for the Southern District of Texas, 4:13-CV-00204, are true and correct.



Sworn to and subscribed before me this
20th day of September, 2013.




Notary Public

CURRICULUM VITAE

September 2013

Gerard F. Dillon, Ph.D.

Business Address

National Board of Medical Examiners
3750 Market Street
Philadelphia, PA 19104

Telephone: (215) 590-9743
FAX: (215) 590-9470
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Education

Ph.D., Educational Psychology, Temple University, 1992
M.Ed., Educational Psychology, Temple University, 1980
B.A., Psychology, LaSalle College, 1973

Employment History

Vice President, Licensure Programs, 2013 to present
National Board of Medical Examiners (NBME)

Responsible for coordination of activities related to licensure examinations, including those in support of USMLE. Responsibilities include implementation and coordination of policies, development of an appropriate program design, composition and activities of test committees, development of a research agenda, and liaison with external groups.

Vice President United States Medical Licensing Examination (USMLE) 2008 to 2013
Associate Vice President, USMLE, 2001 to 2007
Director, USMLE Step 3, NBME, 1997 to 2001
Senior Psychometrician, NBME, 1980 to 2001
Psychometric Associate, NBME, 1976 to 1980
Psychometric Technician, NBME, 1974 to 1976
Adjunct Faculty, Psychological Studies in Education, Temple University, 1995 to 1997

Professional Organizations

Membership in: American Educational Research Association, (AERA)
National Council on Measurement in Education (NCME)
Administrators in Medicine (AIM)
International Association of Medical Regulatory Authorities

Exhibit A to Affidavit of Gerard F. Dillon

(IAMRA)

Selected Presentations and Publications

Dillon, G.F., Henzel, T.R. and LaDuca, A. (1989). *The Use of Relative-Absolute Compromise Techniques in the Standard Setting Process*. Paper presented at the Annual Meeting of the National Council on Measurement in Education, April, San Francisco.

Dillon, G.F., Postell, L.E. and Henzel, T.R. (1990). *Using Scrambled Test Forms to Discourage Cheating Behavior - Practical Implications for Test Equating*. Paper presented at the Annual Meeting of the American Educational Research Association, April, Boston.

Dillon, G.F. (1990). *The Relationship of Item Position and Angoff-Based Standard Setting Judgments*. Paper presented at the Annual Meeting of the American Educational Research Association, April, Boston.

Dillon, G.F., Nungester, R.J. and LaDuca, A. (1990). *The Relationship of Test Item Content and Format to Angoff Based Standard Setting Judgments - Alerting Judges to Potential Problems*. Paper presented at the Annual Meeting of the National Council on Measurement in Education, April, Boston.

Swanson, D.B., Dillon, G.F. and Postell, L.E. (1990). Setting Content-Based Standards for National Board Exams: Initial Research for the Comprehensive Part I Examination. *Academic Medicine September Supplement 1990: Proceedings of the Twenty-Ninth Annual Research in Medical Education Conference*, 65(9), S17-S18.

Dillon, G.F. and Ross, L.P.(1991). *The Effect of Targeting Test Questions at the Minimum Pass Point: Practical Considerations and Implications*. Paper presented at the Annual Meeting of the American Educational Research Association, April, Chicago.

Dillon, G.F., Swanson, D.B., Kelley, P.R., Nungester, R.J. and Powell, R.D.(1991). *Retention of Basic Science Information by Fourth-Year Medical Students*. Paper presented at the Annual Meeting of the American Educational Research Association, April, Chicago.

Clyman S.G., Julian E.R., Orr N.A., Dillon G.F., Cotton K.E.(1991). Continued research on computer-based testing. In Clayton PD (ed): *Proceedings of the Fifteenth Annual Symposium on Computer Applications in Medical Care*. New York, McGraw-Hill, Inc., pp 742-746.

Dillon, G.F. and Clyman, S.G. (1992). The computerization of Clinical Science Exams and Its Effect on Performance of Third-Year Medical Students. *Academic Medicine*

September Supplement 1992: Proceedings of the Thirty-First Annual Research in Medical Education Conference, 67(10), S76.

Dillon, G.F., Henzel, T.R., Klass, D.J., LaDuca, A., and Peskin, E.(1993). *Presenting Test Items Clustered Around Patient Cases - Psychometric Concerns and Practical Implications for a Medical Licensure Program*. Paper presented at the Annual Meeting of the American Education Research Association, April, Atlanta.

Dillon, G.F., Swanson, D.B., Nungester, R.J., Peskin, E., and Ross, L.P.(1993). *A System for Training Standard Setting Judges Using Repeated Exercises, Questionnaires, and Unique Data Formats*. Paper presented at the Annual Meeting of the American Educational Research Association, April, Atlanta.

Dillon, G.F.(1994). Setting Standards on Written Examinations. In Mancall, EL, Bashook, PG, and Dockery, JL (eds.): *Establishing Standards for Board Certification*. Evanston, American Board of Medical Specialties, pp. 41-45.

Dillon GF, Henzel TR, LaDuca A, Walsh, WP(1995). *The Influence of Type of Residency Training and Gender on an Examination for Medical Licensure*. Paper presented at the Annual Meeting of the American Educational Research Association, April, San Francisco.

Dillon, GF, Henzel TR, and Walsh WP(1996). *The impact of item set configuration on examinee response patterns*. A paper presented at the Annual Meeting of the American Educational Research Association, April, New York.

Dillon, GF(1996). The Expectations of Standard Setting Judges. *CLEAR Exam Review*, 7(2), 22-26.

Leone-Perkins ML, Dillon GF, Walsh, WP(1996). Examinee perceptions of the usefulness of performance feedback on an examination for medical licensure. Proceedings of the Thirty-fifth Annual Conference of Research in Medical Education. *Academic Medicine*, 1996, 71(10), S88-S90.

Swanson DB, Case SM, Luecht, RM, and Dillon, GF(1996). *Retention of basic science information by 4th-year medical students*. Proceedings of the Thirty-fifth Annual Conference of Research in Medical Education. *Academic Medicine*, 1996, 71(10), S80-S82.

Dillon GF, Marcus LA, and Walsh WP(1997). *Preparing to repeat the USMLE Step 3 examination: The usefulness of test performance feedback*. Proceedings of the Thirty-sixth Annual Conference of Research in Medical Education. *Academic Medicine*, 1997, 72(10), S94-S96.

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Dillon, GF(1998). Testing and Measurement Issues: The Role of Survey Data in a Testing Program. *CLEAR Exam Review*, 9(1), 20-22.

Dillon GF and Walsh WP(1998). *Standard setting judges' perceptions on the use of performance data to guide their decisions*. A paper presented at the Annual Meeting of the National Council on Measurement in Education, April, San Diego.

Dillon GF, Case SM, Melnick DE, Nungester RJ, and Swanson DB(1998). Setting standards on the United States Medical Licensing Examination. *Proceedings of the Eighth International Ottawa Conference*. Philadelphia, PA: National Board of Medical Examiners; CD-ROM.

Dillon GF, and Henzel TR(1999). *The relationship between amount of postgraduate training and performance on a physician licensing examination*. A paper presented at the Annual Meeting of the American Education Research Association, April, Montreal.

Dillon GF and Walsh WP (2000). Using performance data to set standards: Practical impact and the perception of judges. *CLEAR Exam Review*, 11(1), 15-18.

Johnson D, Dillon GF, and Henzel TR (2000). The Post Licensure Assessment System. *The Journal of Medical Licensure and Discipline*, 86(3), 116-122.

Dillon GF (2000). *Technological Innovations and Issues in Testing*. Presentation at the Annual Conference of the Council on Licensure, Enforcement, and Regulation (CLEAR), September, Miami.

Dillon GF, Clyman SG, Clauser BE, Margolis MJ. The introduction of computer-based case simulations into the United States Medical Licensing Examination. *Academic Medicine*. 2002;77:S94-96.

Melnick DE, Dillon GF, Swanson DB. Medical licensing examinations in the United States. *Journal of Dental Education*. 2002;66:595-599; discussion 610-611.

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De Champlain AF, Winward M, Dillon GF, De Champlain JE (2004). Modeling passing rates on a computer-based medical licensing examination: an application of survival data analysis, *Educational Measurement: Issues and Practice* 23(3): 15-22.

Dillon GF, Clauser BE, Hawkins RE, Swanson DB (2004). Building a validity argument for a medical licensing examination. Paper presented at the Eleventh International Ottawa Conference on Medical Education and Assessment, July, Barcelona, Spain.

Dillon GF, Boulet JR, Hawkins RE, Swanson DB. Simulations in the United States Medical Licensing Examination (USMLE). *Quality & Safety in Health Care*. 2004;13 Suppl 1:i41-i45.

Swygert KA, Muller ES, Clauser BE, Dillon GF, Swanson DB (2004). The impact of timing changes on examinee pacing on the USMLE Step 2 exam. *Academic Medicine*, 79(10 Suppl):S52-54.

Swanson DB, Lazarus CJ, Dillon GF, Melnick DE (2005). Coverage of the Behavioral and Social Sciences on the United States Medical Licensing Examination (USMLE). *Annals of Behavioral Science and Medical Education*, 11(1): 30-36.

Dillon GF, Scoles PV. An Examination of Clinical Skills in the United States Medical Licensing Examination (USMLE). *ACGME Bulletin*. December, 2005:16.

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performance: Revisiting old findings and asking new questions. *Academic Medicine*, 81(10 Suppl): S103-S107.

DeChamplain A, Sample L, Dillon GF, Boulet JR (2006). Modeling longitudinal performance on the United States Medical Licensing Examination and the impact of sociodemographic covariates: an application of survival data analysis. *Academic Medicine*, 81(10 Suppl): S108-S111.

Dillon GF, Hallock JA, Melnick DE, Scoles PV, Thompson J (2006). Introduction of an assessment of clinical skills into a medical licensing examination. International Association of Medical Regulatory Associations, 7th Conference on Medical Regulation, November, Wellington, New Zealand.

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Dillon GF, Katsufakis PJ, Melnick DE. Medical Regulation and Licensure – Keys to Valid Assessment. Annual Meeting of the International Association of Medical Regulatory Authorities; October 2012; Ottawa, Canada.

Dillon GF, Swanson DB, McClintock JC, Gravlee GP. The relationship between the American Board of Anesthesiology Part I Certification Examination and the United States Medical Licensing Examination. *Journal of Graduate Medical Education*: June 2013, 5 (2), 276-283.